

REMARKS

This Amendment addresses the issues outstanding from the final Office Action dated November 19, 2008.

Applicants respectfully request favorable reconsideration of this application, as amended.

Claims 8, 10-18, 21, 23-27, 43, 45, 48, 49 and 51 were rejected under 35 U.S.C. § 102(b) as being anticipated by Leoncavallo et al. (U.S. Patent No. 5,603,436). Claims 1 and 3-7 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Leoncavallo et al. in view of Stull (U.S. Patent No. 3,439,842) or Greatbatch (U.S. Patent No. 5,609,276). Claims 28 and 29 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Leoncavallo et al. in view of Cargile et al. (U.S. Patent No. 6,673, 301).

The rejection of Claims 8, 10-18, 21, 23-27, 43, 45, 48 and 51 under 35 U.S.C. § 102(b) is respectfully traversed. Independent Claim 8 recites, *inter alia*, a closure arrangement that includes a receiver piece and a hollow cap. The hollow cap includes an integrally formed sidewall, top, post, support structure, and internal cap ring. The post is supported by the support structure in a longitudinally spaced position from the central cap opening. The applied reference, namely Leoncavallo, fails to disclose or suggest a closure arrangement that includes a receiver piece and a hollow cap with the cap including an integrally formed sidewall, top, post, support structure, and internal cap ring, and the post being supported by the support structure in a longitudinally spaced position from the central cap opening. Note, for example, that Leoncavallo plug member (44) is longitudinally flush with opening (42) and receives accordingly a downward force from dimple (84) of cover (26). See Leoncavallo Fig. 6 and col. 5, lines 34-37. Accordingly,

Claim 8 is patentable over the applied reference. Independent Claim 17 recites a container that includes the closure arrangement of Claim 8 and is, therefore, patentable over Leoncavallo at least for the reasons discussed above with respect to Claim 8.

Independent Claim 43 recites, *inter alia*, a hollow cap that includes a sidewall, a top, a post for sealingly engaging a receiver opening of a receiver piece, a support structure, an internal cap ring, and a thread for slidingly engaging a ramp of the receiver piece. The post is substantially cylindrical and is supported in a longitudinally spaced position from the central cap opening, and the cap is molded as one piece. In addition to the deficiencies discussed previously, Leoncavallo neither discloses nor suggests a hollow cap that includes a sidewall, a top, a post for sealingly engaging a receiver opening of a receiver piece, a support structure, an internal cap ring, and a thread for slidingly engaging a ramp of the receiver piece, with the post being substantially cylindrical and the cap being molded as one piece. Note, for example, that Leoncavallo discloses a spout (20) – referred to by the Office as “cap 20” – that includes a separate sealing element (48). See Leoncavallo col. 4, lines 29-37. In further contrast with the substantially cylindrical plug of Applicants’ claimed invention, Leoncavallo plug member (44) is formed with tapered guide members (52). See Leoncavallo col. 4, lines 32-37. Accordingly, Claim 43 is patentable over the applied reference. Independent Claim 51 recites a closure arrangement that includes the cap of Claim 43 and is, therefore, patentable over Leoncavallo at least for the reasons discussed above with respect to Claim 43.

Independent Claim 49 has been amended without prejudice or disclaimer, and recites, *inter alia*, a dispenser that includes a dispenser sidewall molded as one piece; a receiver piece having a receiver sidewall; and a cap connected to a first end of the

dispenser sidewall and having a central cap opening, a post, and a support structure that supports the post in a longitudinally spaced position from the cap opening. In addition to the deficiencies discussed previously, Leoncavallo neither discloses nor suggests a dispenser that includes a dispenser sidewall molded as one piece and a cap connected to a first end of the dispenser sidewall and having a central cap opening, a post, and a support structure that supports the post in a longitudinally spaced position from the cap opening. In contrast to the one-piece dispenser sidewall (12) of Applicant's claimed invention, Leoncavallo discloses a multi-part assembly including lower receptacle portion (14), cap (18), and spout (20) (referred to by the Office as "cap 20"). Claim 49, at least as presently amended, is therefore patentable over the applied reference.

Regarding the rejection of Claim 1 under 35 U.S.C. § 103(a), Applicants respectfully traverse. Claim 1 recites, *inter alia*, a one-piece hollow cap having an integrally formed sidewall, top, post, support structure, and internal cap ring. The post is solid and is supported by the support structure in a longitudinally spaced position from the central cap opening. As discussed previously, the primary reference, namely Leoncavallo, fails to teach or suggest a one-piece hollow cap having a sidewall, top, solid post, support structure, and internal cap ring formed as one piece, with the post supported by the support structure in a longitudinally spaced position from a central cap opening. In contrast to Applicants' claimed invention, Leoncavallo plug member (44) is longitudinally flush with opening (42) and receives accordingly a downward force from dimple (84) of cover (26). See Leoncavallo Fig. 6 and col. 5, lines 34-37. The secondary references, Stull and Greatbatch, fail to supply this deficiency. Accordingly, Claim 1 is patentable over the applied references, and the rejection should therefore be withdrawn.

Regarding the rejection of Claims 28 and 29 under 35 U.S.C. § 103(a), Applicants respectfully traverse. 35 U.S.C. § 103(c) provides in part, “Subject matter developed by another person, which qualifies as prior art only under one or more of subsections (e), (f), and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the claimed invention was made, owned by the same person or subject to an obligation of assignment to the same person.” Under 35 U.S.C. § 103(c), Cargile is disqualified as prior art under 35 U.S.C. § 103(a) because it would qualify as prior art only under 35 U.S.C. § 102(e) and was commonly assigned with the present application at the time the claimed invention was made. Thus, the rejection based on Cargile is improper and should be withdrawn.

As can be seen from the previous discussion, independent Claims 1, 8, 17, 43, 49, and 51 distinguish patentably over the applied references and should therefore be allowed, as should their respective dependent claims. A Notice of Allowance is respectfully requested.

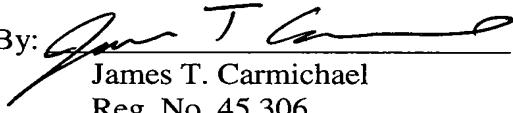
Should the Examiner believe that any further action is necessary to place this application in better form for allowance, the Examiner is invited to contact Applicants’ representative at the telephone number listed below.

The Commissioner is hereby authorized to charge to Deposit Account No. 50-1165 (T4289PC-13136US01) any fees under 37 C.F.R. §§ 1.16 and 1.17 that may be

required by this paper and to credit any overpayment to that Account. If any extension of time is required in connection with the filing of this paper and has not been separately requested, such extension is hereby requested.

Respectfully submitted,

Date: February 19, 2009

By: 
James T. Carmichael
Reg. No. 45,306

Michael A. Minter
Reg. No. 58,797

Miles & Stockbridge, P.C.
1751 Pinnacle Drive
Suite 500
McLean, Virginia 22102-3833
(703) 903-9000